



Report to the Auburn City Council

Action Item
Agenda Item No. **8**

City Manager's Approval
[Signature]

To: Honorable Mayor and City Council Members
From: Andy Heath, Administrative Services Director
Date: May 23, 2011
Subject: Assignment of Auburn Airport Land Lease from Brian Metcalf to Mark Batchelor and Lou Ann Hammond

The Issue

Shall the City Council consent to the assignment and assumption of a land lease from Brian Metcalf to Mark Batchelor and Lou Ann Hammond, and authorize the execution of all related documents?

Conclusions and Recommendations

By **RESOLUTION**, authorize the City Manager or his designee to approve the assignment and assumption of the land lease between the City of Auburn and Brian Metcalf to Mark Batchelor and Lou Ann Hammond and authorize the execution of all related documents.

Background

On February 26, 1996, the City Council approved a 30-year land lease between the City of Auburn and Brian Metcalf. The land lease comprises 2,000 square feet of real property upon which a hangar is built at the Auburn Airport.

Analysis

As a means to facilitate the assignment of the lease, Brian Metcalf is selling his hangar and has requested the City's consent to assign the leasehold interest for the above referenced premises to Mark Batchelor and Lou Ann Hammond. In addition to the City's approval of the lease assignment, staff recommends the City consent to the execution of any related documents including the recording, by the Placer County Recorder's Office, of a memoranda of lease for the affected parcel, if necessary.

Alternatives Available to Council; Implications of Alternatives

1. Adopt a resolution authorizing the City Manager or his designee to approve the assignment and assumption of the lease from Brian Metcalf to Mark Batchelor and Lou Ann Hammond.
2. Do not adopt a resolution and direct staff accordingly.

Fiscal Impact

None. The annual lease amount of \$321.24 currently paid by Brian Metcalf will be assumed by the assignees to the lease.

Exhibit A – Assignment of Lease with Consent

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RESOLUTION NO. 11-
RESOLUTION APPROVING ASSIGNMENT OF AIRPORT LAND LEASE FROM
BRIAN METCALF TO MARK BATCHELOR AND LOU ANN HAMMOND

THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE:

That the City Council of the City of Auburn does hereby authorize the
City Manager or his designee to approve the assignment and assumption of the
Land Lease between the City of Auburn, Brian Metcalf, and Mark Batchelor and
Lou Ann Hammond, and execute all related documents.

DATED: May 23, 2011

William W. Kirby, MD, Mayor

ATTEST:

Joseph G. R. Labrie, City Clerk

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby
certify that the foregoing resolution was duly passed at a regular meeting of
the City Council of the City of Auburn held on the 23rd day of May 2011 by the
following vote on roll call:

Ayes:
Noes:
Absent:

Joseph G. R. Labrie, City Clerk

ASSIGNMENT OF LEASE WITH CONSENT
(AUBURN MUNICIPAL AIRPORT)

This Assignment of Lease with Consent ("**Assignment**") dated as of _____, 2011 (the "**Effective Date**") is made and entered into for good and valuable consideration by and between Brian Metcalfe ("**Assignor**") and Mark Batchelor and Lou Ann Hammond ("**Assignee**"), with reference to the following facts:

RECITALS

A. City of Auburn, a Municipal Corporation, as Lessor, and Brian Metcalfe as Lessee, executed an Auburn Municipal Airport Land Lease ("**Lease**") on February 26, 1996. By the terms of the Lease the Leased Premises were leased to Assignor as Lessee for a term of thirty (30) years, commencing on February 26, 1996, and ending on February 26, 2026. The Leased Premises are described at Exhibit A and depicted on Exhibit B.

B. Assignor now desires to assign the Lease to Assignees, and Assignees desire to accept the assignment thereof.

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Assignor, Assignee and City agree as follows:

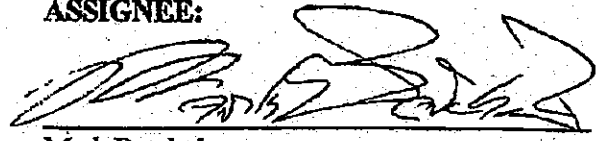
1. Effectiveness. This Assignment shall be effective as of the Effective Date.
2. Assignment, Assumption and Consent. Assignor hereby assigns and delegates to Assignee, and Assignee hereby accepts and assumes from Assignor, all of Assignor's rights and obligations as the "Lessee" under the Lease with respect to the Leased Premises and the improvements constructed thereon. Without limiting the foregoing, Assignee hereby agrees, for the benefit of Assignor and the City, to perform all of the obligations of the "Lessee" under Lease that relate to the Leased Premises and the improvements constructed thereon. The City hereby consents to the assignment and delegation by Assignor, and the acceptance and assumption by Assignee, of such rights and obligations.
3. Release of Assignor. The City hereby releases and discharges Assignor from any obligations of "Lessee" occurring on and after the Effective Date.
4. Entire Agreement. This Assignment, together with the Lease is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written, between the parties with respect to the matters contained in this Assignment. Any waiver, modification, consent or acquiescence with respect to any provision of this Agreement shall be set forth in writing and duly executed by or in behalf of the party to be bound thereby. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.
5. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of California without giving effect to its conflicts of law principles.

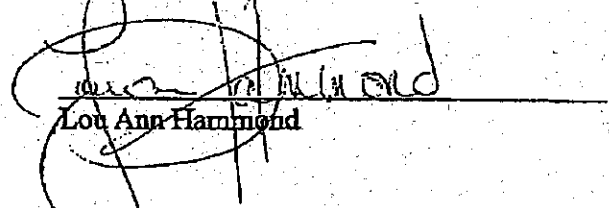
6. Third Party Beneficiaries. No third party shall have any rights under this Assignment.
7. Subject to Lease. This Assignment is subject to all the terms, conditions and provisions of the Lease.

ASSIGNOR:


Brian Metcalfe

ASSIGNEE:


Mark Batchelor


Lou Ann Hammond

CITY:

THE CITY OF AUBURN,
a municipal corporation

By: _____

Robert Richardson
City Manager

Attest:

Joseph J. R. LaBrie
City Clerk

Approved as to form:

Michael G. Colantuono
City Attorney

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